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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 7th May, 1992:—

BILL No. XXXV OF 1992

A Bill further to amend the Plantations Labour Act, 1951.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Plantations Labour (Amendment) Act, 1992.

Short
title
and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall, in relation to any State, be construed as a reference to the coming into force of that provision in that State.

69 of 1951.

2. In section 2 of the Plantations Labour Act, 1951 (hereinafter referred to as the principal Act),—

Amend-
ment of
section 2.

(a) in clause (e),—

(i) after the words “affairs of the plantation”, the brackets and words “(including a lessee of such plantation)” shall be inserted;

(ii) the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this clause, “the person who has the ultimate control over the affairs of the plantation” means, in the case of a plantation owned or controlled—

(i) by a firm or other association of individuals, any one of the individual partners or members thereof;

(ii) by a company, any of the directors thereof; and

(iii) by the Central Government or a State Government or any local authority, the person or persons appointed to manage the affairs of the plantation;’;

(b) in clause (ee), for the words “and includes, where the worker is a male, his parents dependent upon him”, the words “and includes his or her parents dependent upon him or her” shall be substituted;

(c) in clause (eee), for the words “an inspector of plantations”, the words “a deputy chief inspector of plantations or an inspector of plantations” shall be substituted;

(d) after clause (h), the following clause shall be inserted, namely:—

‘(ha) “trade union” means a trade union registered under the Trade Unions Act, 1926;’;

16 of 1926.

(e) in clause (k),—

(i) in the opening portion, for the words “through any agency”, the words “through any agency, including a contractor,” shall be substituted;

(ii) for sub-clauses (ii) and (iii), the following sub-clauses shall be substituted, namely:—

“(ii) any person employed mainly in a managerial or administrative capacity;

(iii) any person who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him functions mainly of a managerial nature; or”;

(f) clause (l) shall be omitted.

3. In section 3B of the principal Act,—

(a) to sub-section (5), the following proviso shall be added, namely:—

“Provided that where a change occurs in the ownership of the plantation such change shall be intimated by the new owner;”;

(b) in sub-section (6), after the words “he shall,” the words “after giving an opportunity of being heard to such parties as he deems fit, including any trade union,” shall be inserted.

4. In section 4 of the principal Act, in sub-section (1),—

Amend-
ment of
section 4.

(a) for the words “inspectors of plantations”, the words “deputy chief inspectors of plantations and inspectors of plantations” shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that no person shall be appointed under this sub-section or sub-section (1A) or having been so appointed shall continue to hold office in case he is or becomes interested directly or indirectly in a plantation or in any process or business carried on therein.”.

5. In section 7 of the principal Act, in sub-section (2), in clause (b), the words “and children” shall be omitted.

Amend-
ment of
section 7.

6. In section 10 of the principal Act,—

Amend-
ment of
section
10.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) In every plantation, there shall be—

(i) established a garden hospital within two years and a group hospital within three years of the registration of that plantation with such facilities;

(ii) provided and maintained, so as to be readily available, such other medical facilities.

as may be prescribed by the State Government for the workers and their families;

Provided that the employer of a plantation, existing at the commencement of the Plantations Labour (Amendment) Act 1992 shall, within a period of two years of such commencement, establish a garden hospital and, within a period of three years of such commencement, establish a group hospital.

Explanation.—In this sub-section,—

(a) “garden hospital” means a hospital which deals with out-patients, in-patients not requiring any elaborate diagnosis and treatment, infectious cases and cases relating to mid-wifery, cases of simple pre-natal and post-natal care, care of infants and children and periodical medical examination of workers;

(b) “group hospital” means a hospital which deals with patients whose diagnosis and treatment are not normally done in a garden hospital or whose cases are referred by a garden hospital.”;

(b) in sub-section (2), for the words “chief inspector”, the words “State Government” shall be substituted.

Amend-
ment of
section
16C.

7. In section 16C of the principal Act, for sub-section (3), the following shall be substituted, namely:—

“(3) No application for compensation under this section shall be entertained unless it is made within two years of the collapse of the house or where death has resulted out of the collapse of the house, within two years of the death;

Provided that the Commissioner may, if he is satisfied that the applicant was prevented by sufficient cause from making the application within the aforesaid period of two years, entertain such application within a further period of six months.”

Insertion
of new
sections
16H, 16-I
and 16J.

8. After section 16G of the principal Act, the following sections shall be inserted, namely:—

Appear-
ance of
parties.

“16H. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or an authorised representative of a trade union or by an inspector or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or, with the permission of the Commissioner, by any other person so authorised.

Con-
tracting.

16-I.(1) Where an employer in the course of or for the purposes of his trade or business contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the employer, the employer shall be liable to pay to any worker employed in the execution of the work any compensation which he would have been liable to pay if that worker had been immediately employed by him.

(2) Where the employer is liable to pay compensation under this section, he would be entitled to be indemnified by the contractor and all questions as to the right and the amount of any such indemnity shall, in default of the agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a worker from recovering compensation from the contractor instead of the employer.

Settle-
ment of
compen-
sation.

16J. (1) Where any lump sum amount has been settled to be paid as compensation by agreement, a memorandum therefor shall be prepared and registered by the employer with the Commissioner in such manner as may be prescribed.

(2) If it appears to the Commissioner that a memorandum ought not to be registered by reason of the inadequacy of the amount agreed to as compensation or by reason of the agreement having

been obtained by fraud or other improper means, he shall refuse to register the memorandum of the agreement and shall pass such orders as he thinks just in the circumstance.

(3) Any memorandum of agreement registered under sub-section (1) shall be enforceable in between the parties to the agreement as if it is a liability of an employer decided by the Commissioner under sub-section (1) of section 16E."

9. After Chapter IV, the following Chapter shall be inserted, namely:--

Insertion
of new
Chapter
IVA.

CHAPTER IVA

PROVISIONS AS TO SAFETY

18A. (1) In every plantation, effective arrangements shall be made by the employer to provide for the safety of workers in connection with the use, handling, storage and transport of insecticides, chemicals and toxic substances.

Safety.

(2) The Central Government may, by notification in the Official Gazette, prohibit, restrict or regulate the employment of women or adolescents for using or handling such hazardous chemical in a plantation in such manner and subject to such conditions and limitations as may be specified in that notification.

(3) The employer shall appoint persons possessing the prescribed qualifications to supervise the use, handling, storage and transportation of insecticides, chemicals and toxic substances in his plantation.

(4) Every employer shall ensure that every worker in a plantation employed in handling, mixing, blending and applying insecticides, chemicals and toxic substances,—

(a) on his first employment, is trained thoroughly in the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides, chemicals and toxic substances and such other matters as may be prescribed by the State Government;

(b) is subjected to refresher courses in this regard.

(5) Every employer shall maintain an accurate medical health record of every worker who is exposed to insecticides, chemicals and toxic substances which are used, handled, stored or transported in a plantation and every such worker shall have access to such record.

(6) Every worker who is exposed to insecticides, chemicals and toxic substances shall be medically examined periodically, in such manner as may be prescribed, by the State Government.

(7) Every employer shall provide—

(a) washing, bathing and block room facilities; and

(b) protective clothing and equipment,

to every worker engaged in handling insecticides, chemicals or toxic substances in such manner as may be prescribed by the State Government.

(8) Every employer shall display in the plantation a list of permissible concentrations of insecticides, chemicals and toxic substances in the breathing zone of the workers engaged in the handling and application of such insecticides, chemicals and toxic substances.

(9) Every employer shall exhibit such precautionary notices as may be prescribed by the State Government indicating the hazards of insecticides, chemicals and toxic substances.

Power to
make
rules.

18B. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the qualifications of supervisor appointed under sub-section (3) of section 18A;

(b) the matters to be specified under clause (a) of sub-section (4) of section 18A;

(c) the manner of medical examination of workers under sub-section (6) of section 18A;

(d) the manner of providing the facilities, clothing and equipment under sub-section (7) of section 18A;

(e) the exhibition of precautionary notices under sub-section (9) of section 18A.

Amend-
ment of
section
19.

10. In section 19 of the principal Act, in sub-section (1), the words "or child" shall be omitted.

Amend-
ment of
section
22.

11. In section 22 of the principal Act,—

(a) for the words "twelve hours", the words "ten and a half hours" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that the chief inspector may, for reasons to be specified in writing, increase the said time to twelve hours."

12. After section 23 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 24.

“24. No child shall be required or allowed to work in any plantation.”.

Prohibition of employment of children.

13. In section 25 of the principal Act, the words “or child” shall be omitted.

Amendment of section 25.

14. In section 26 of the principal Act,—

(a) in the opening portion, the words “child and no” shall be omitted;

Amendment of section 26.

(b) in clause (b), the words “child or” shall be omitted.

15. In section 27 of the principal Act,—

Amendment of section 27.

(a) in sub-section (1),—

(i) for the words “young person” at both the places where they occur, the word “adolescent” shall be substituted;

(ii) for the words “such person” at both the places where they occur, the words “such adolescent” shall be substituted;

(iii) the words “either as a child or” shall be omitted;

(b) in sub-section (3), for the words “young person”, the word “adolescent” shall be substituted.

16. In section 28 of the principal Act, for the words “young person”, the word “adolescent” shall be substituted.

Amendment of section 28.

17. In section 30 of the principal Act, in sub-section (1), in clause (b) and in section 31 thereof in sub-section (2), for the words “a young person”, the words “an adolescent” shall be substituted.

Amendment of sections 30 and 31.

18. In section 32A of the principal Act, for the words “such authorities”, the words “the trade union of which such worker is a member and to such other authorities” shall be substituted.

Amendment of section 32A.

19. In sections 33 and 35 of the principal Act, for the words “three months, or with fine which may extend to five hundred rupees”, wherever they occur, the words “six months, or with fine which may extend to ten thousand rupees” shall be substituted.

Amendment of sections 33 and 35.

20. In section 34 of the principal Act, for the words “one month, or with fine which may extend to fifty rupees”, the words “two months, or with fine which may extend to one thousand rupees” shall be substituted.

Amendment of section 34.

21. In section 36 of the principal Act, for the words “three months, or with fine which may extend to five hundred rupees, or with both”, the following shall be substituted, namely:—

Amendment of section 36.

“six months, or with fine which may extend to ten thousand rupees, or with both and where the contravention is a continuing one, subject to the provisions of section 37A, with a further fine which

may extend to one thousand rupees for every day during which the contravention continues after the conviction:

Provided that where the contravention of any of the provisions of this Act or of any rules made thereunder has resulted in an accident causing death or serious bodily injury, the fine shall not be less than twenty-five thousand rupees in the case of an accident causing death, and ten thousand rupees in the case of an accident causing serious bodily injury.

Explanation.—In this section and in section 37, “serious bodily injury” means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to, the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days.

Amend-
ment of
section
37.

22. Section 37 of the principal Act shall be renumbered as sub-section (1) thereof and,—

(a) in sub-section (1) as so renumbered,—

(i) for the words “six months, or with fine which may extend to one thousand rupees”, the words “one year, or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees” shall be substituted;

(ii) the proviso shall be omitted;

(b) after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

“(2) If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving a contravention of the same provision and which results into an accident causing death or serious bodily injury, he shall be punishable on a subsequent conviction with imprisonment which may extend to one year, or with fine which shall not be less than fifty thousand rupees in the case of an accident causing death, and twenty thousand rupees in the case of an accident causing serious bodily injury, or with both.

(3) For the purposes of this section, no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.”.

Substitu-
tion of
new sec-
tions for
section
39.

23. For section 39 of the principal Act, the following sections shall be substituted, namely:—

Cogni-
zance of
offences.

‘39. Any worker, an office bearer of a trade union of which such worker is a member, an inspector or any recognised voluntary organisation may file a complaint regarding the commission of an offence under this Act and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Explanation.—For the purposes of this section, “recognised voluntary organisation” means such organisation as the State Government may, by notification in the Official Gazette, specify.

39A. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.’.

Protection
to persons
acting
under this
Act

24. In section 40 of the principal Act, for the words “the alleged commission of the offence came to the knowledge of an inspector”, the words “the offence is alleged to have been committed” shall be substituted.

Amend-
ment of
section
40.

25. In section 43 of the principal Act,—

Amendment
of section
43.

(a) in sub-section (2), after clause (h), the following clause shall be inserted, namely:—

“(ha) the manner in which a memorandum relating to settlement of compensation shall be registered by the employer with the Commissioner;”;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.”.

STATEMENT OF OBJECTS AND REASONS

The Plantations Labour Act, 1951 provides for the welfare of plantation labour and regulates their conditions of work. It has been in force since April, 1954 and is administered by the State Government.

2. The Plantations Labour Act, 1951 does not contain any provision specifically dealing with safety of workers. Similarly, there is no provision covering occupational health problems. One of the major problems of safety and health in plantations arises out of the risks associated with the growing use of agro-chemicals, especially insecticides, and herbicides. As present, the Act and the rules formed, thereunder have no provisions for safety precautions to be taken for the storages, utilisation and handling of such agro-chemicals. It is, therefore, considered necessary to amend the Act to provide specifically for safeguards to be adopted in the use and handling of such substances.

3. It is also necessary to amend the Act to enable the Central Government to prohibit, restrict or regulate employment of women and adolescents for using or handling hazardous chemicals in plantations. Such a provision will ensure uniformity of rules in this regard in plantations in the country.

4. Employment of children below the age of 12 years was earlier banned under section 24 of the Plantations Labour Act, 1951. This provision was, however, deleted by the Child Labour (Prohibition and Regulation) Act, 1986 as the employment in a plantation was not considered hazardous. The matter was further examined in consultation with the State Governments and it was felt that employment of child labour in plantations might encourage a large-scale induction of such labour. It is, therefore, considered necessary to amend the Act to prohibit employment of children below 14 years in plantations.

5. It has been felt that in order to ensure better implementation of welfare provisions under the Act, specific targets should be fixed for provision of certain facilities and that penalties for non-compliance of such provisions should be made more stringent. It has also been considered necessary that the Act should be amended to make provisions relating to the liability of an employer in regard to the workmen employed by a contractor engaged for the execution of work by such employer. This Act should also be suitably amended to modify the definition of "family" and "employer" to make such definition more elastic and also to strengthen the inspectorates to make implementation of the Act more effective.

6. The Bill seeks to achieve the above objects.

PURNO A. SANGMA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill seeks to insert a new Chapter IVA containing provisions dealing with safety of workers. This clause seeks to insert a new section 18A which empowers the Central Government to specify the manner in which and the conditions and limitations subject to which women or adolescents may be employed for using or handling any hazardous chemical in a plantation. This clause also seeks to insert a new section 18B which empowers the State Government to make rules for carrying out other provisions of the said Chapter. The matters in respect of which rules may be made, *inter alia*, relate to the qualifications of supervisors, training of workers, medical examination of workers and exhibition of precautionary notices.

2. Clause 25 of the Bill seeks to amend section 43 of the Act dealing with the general power to make rules. A new clause empowering the State Government to make rules regarding the manner in which a memorandum relating to settlement of compensation shall be registered by the employer with the Commissioner has been inserted in sub-section (2). Sub-section (3) has been substituted with a new sub-section providing for laying of the rules, so framed, before the State Legislature.

3. The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure and administrative detail. The delegation of legislative power is, therefore, of a normal character.

SUDARSHAN AGARWAL,
Secretary-General.

